

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
NEW YUEN FAT GARMENTS FACTORY LIMITED, :

Plaintiff, :

Case No. 07 CIV 8304  
(JFK)

- against - :

AUGUST SILK, INC. and DIRECT APPAREL  
SOURCING, INC., :

Defendants. :

----- X  
**ANSWER AND ALTERNATIVE COUNTERCLAIMS OF DIRECT APPAREL  
SOURCING, INC. TO COMPLAINT OF PLAINTIFF, NEW YUEN FAT  
GARMENTS FACTORY LIMITED**

Direct Apparel Sourcing, Inc. ("Defendant") by its attorneys Lazarus & Lazarus, P.C., answering the Complaint of Plaintiff, New Yuen Fat Garments Factory Limited ("Plaintiff") respectfully sets forth, represents and alleges:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 1, and specifically avers that, upon information and belief, Plaintiff is not authorized to do business in New York, or, alternatively Plaintiff is a domestic business corporation.

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 2.

3. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 3.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 4, except specifically avers that, Defendant is not liable to Plaintiff for any claim or cause asserted in the Complaint.

5. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 5.

6. Defendant admits so much of the allegations of the paragraph 6 of the Complaint as alleges that Defendant conducts business in this forum, and deny knowledge or information as to the remainder thereof.

7. Pleads to each and every allegation set forth in the paragraph of the Complaint marked and numbered 7 by referring to the laws, rules and statutes referenced therein, except admits that Defendant does business within this District.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 8.

9. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 9.

10. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 10, except refers to the documents memorializing the contract referenced therein for the content thereof.

11. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 11, except refers to the documents memorializing the contract referenced therein for the content thereof.

12. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 12, except refers to the documents memorializing the contract referenced therein for the content thereof.

13. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 13.

14. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 14.

15. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 15.

16. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 16, except refers to the documents concerning the payments referenced therein.

17. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 17, except refers to the documents memorializing the contract referenced therein for the content thereof.

18. Admits each and every allegation set forth in the paragraph of the Complaint marked and numbered 18, except avers that no moneys are due Plaintiff from Defendant.

19. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 19.

20. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 20, except refers to the documents memorializing the contract referenced therein for the content thereof.

21. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 21, except refers to the documents memorializing the contract referenced therein for the content thereof.

22. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 22.

23. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 23.

24. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 24.

25. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 25, except refers to the documents concerning the payments referenced therein.

26. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 26, except refers to the documents memorializing the contract referenced therein for the content thereof.

27. Admits the allegations set forth in the paragraph of the Complaint marked and numbered 27, except avers that no moneys are due to Plaintiff from Defendant.

28. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 28.

29. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 29, except refers to the documents memorializing the contract referenced therein for the content thereof.

30. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 30, except refers to the documents memorializing the contract referenced therein for the content thereof.

31. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 31.

32. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 32.

33. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 33.

34. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 34, except refers to the documents concerning the payments referenced therein.

35. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 35, except refers to the documents memorializing the contract referenced therein for the content thereof.

36. Admits the allegations set forth in the paragraph of the Complaint marked and numbered 36, except avers that no moneys are due to Plaintiff from Defendant.

37. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 37.

38. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 38, except refers to the documents memorializing the contract referenced therein for the content thereof.

39. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 39, except refers to the documents memorializing the contract referenced therein for the content thereof.

40. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 40.

41. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 41.

42. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 42.

43. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 16, except refers to the documents concerning the payments referenced therein.

44. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 44, except refers to the documents memorializing the contract referenced therein for the content thereof.

45. Admits the allegations set forth in the paragraph of the Complaint marked and numbered 45, except avers that no moneys are due to Plaintiff from Defendant.

46. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 46.

47. Pleads to each and every allegation set forth in the paragraph of the Complaint marked and numbered 47 as hereinbefore alleged herein.

48. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 48.

49. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 49.

50. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 50.

51. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 51.

52. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 52.

53. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 53.

54. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 54.

55. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 55.

56. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 56.

57. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 57.

58. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 58.

59. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 59.

60. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 60,



except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

61. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 61, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

62. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 62, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

63. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 63, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

64. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 64, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

65. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 65,

except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

66. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 66, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

67. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 67, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

68. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 68, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

69. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 69, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

70. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 70,

except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

71. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 71, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

72. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 72, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

73. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 73, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

74. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 74, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

75. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 75,

except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

76. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 76, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

77. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 77, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

78. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 78, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

79. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 79, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

80. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 80,

except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

81. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 81, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

82. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 82, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

83. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 83, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

84. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 84, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

85. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 85,

except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

86. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 86, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

87. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 87, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

88. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 88, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

89. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 89, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

90. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 90,

except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

91. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 91, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

92. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 92, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

93. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 93, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

94. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 94, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

95. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 95,

except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

96. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 96, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

97. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 97, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

98. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 98, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

99. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 99, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

100. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered



100, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

101. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 101, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

102. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 102, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

103. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 103, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

104. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 104, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

105. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered

105, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

106. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 106, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

107. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 107, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

108. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 108, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

109. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 109, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

110. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered

110, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

111. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 111.

112. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 112.

113. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 113.

114. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 114.

115. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 115.

116. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 116, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

117. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 117.

118. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 118.

119. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 119, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

120. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 120, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

121. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 121, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

122. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 122, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

123. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 123.

124. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered

124, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

125. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 125, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

126. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 126, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

127. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 127, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

128. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 128, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

129. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 129.

130. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 130, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

131. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 131, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

132. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 132, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

133. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 133, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

134. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 134, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

135. Denies each and every allegation set forth in the paragraph of the Complaint marked and numbered 135.

136. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 136, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

137. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 137, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

138. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 138, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

139. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered 139, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

140. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered

140, except specifically denies that Defendant is liable to Plaintiff for any claim or cause asserted in the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

141. Upon information and belief this Court lacks subject matter over the claims causes of actions asserted by Plaintiff herein.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

142. There is a prior action pending between the Plaintiff and Defendant herein.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

143. Plaintiff's claims against Defendant are barred by the doctrine of waiver.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

144. Plaintiff's claims against Defendant are barred by the doctrine of laches.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

145. Plaintiff's claims against Defendant are barred by the doctrine of estoppel.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

146. Plaintiff's Claims are barred by the Statute of frauds.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

147. Plaintiff has failed to state a claim for relief.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

148. Plaintiff's claims are barred by documentary evidence.



**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

149. Plaintiff's claims are barred by the statute of limitations

**FACTS APPLICABLE TO EACH ALTERNATIVE AFFIRMATIVE DEFENSE**  
**ALTERNATIVE COUNTERCLAIMS ASSUMING THIS COURT'S JURISDICTION**

150. Defendant repeats and realleges each and every prior allegation hereof as if set forth at length herein.

151. Defendant is a corporation organized and existing under and by virtue of the laws of the State of Delaware with a place of business in New York at 485 Seventh avenue, Suite 207, New York, New York 10018.

152. Upon information and belief Plaintiff is a corporation doing business in New York.

153. Defendant is a merchant engaged in business as a seller and importer of apparel merchandise.

154. Upon information and belief Plaintiff is a merchant engaged in business as a manufacturer of apparel.

155. Prior to in or about November 2003, Plaintiff entered into various agreements in writing for the purchase and sale of apparel to Defendant wherein and whereby Plaintiff agreed to sell and deliver, and Defendant agreed to take in, accept, and pay for apparel merchandise upon the specifications, terms and conditions as more particularly set forth in writing by Defendant to Plaintiff (the "Orders").

156. In connection with the Orders, Defendant caused to be opened to Plaintiff or transferred to Plaintiff various Letters of Credit, or portions thereof, for payment of the apparel merchandise ordered by Defendant from Plaintiff, and in connection therewith, Defendant paid or caused to be paid to Plaintiff substantial sums of money for and on account of the apparel merchandise subject of the Orders.

**AS AND FOR A TENTH ALTERNATIVE DEFENSE AND FIRST ALTERNATIVE  
COUNTERCLAIM**

157. Defendant repeats and realleges each and every prior allegation hereof as if set forth at length herein.

158. Plaintiff knew or should have known that with respect to the Orders issued to it by Defendant that Defendant intended on reselling the apparel merchandise subject thereof to August Silk, Inc. ("August Silk"), at a profit.

159. Plaintiff was obligated and bound to deliver the apparel subject of the orders to Defendant in accordance with the specifications, terms, and conditions set forth in the Orders.

160. Defendant caused to be paid to Plaintiff for substantially all of the apparel subject of the Ordered by Plaintiff's receipt of the moneys through the Letters of Credit.

161. Plaintiff breached its obligations to Defendant herein in that contrary to Plaintiff's obligations as set forth in the POs Plaintiff caused to be delivered to Defendant apparel that was (a) not as ordered; and (b) not as specified; (c) late; (d) unmerchantable; and (e) unsuited for the purposes intended.

162. By reason of the aforesaid, Defendant was not able to deliver the apparel subject of the Orders to Defendant's customer, August Silk, in accordance with Defendant's agreements with August Silk.

163. By reason of Plaintiff's breach as aforesaid, Defendant is entitled to an award of consequential damages, including lost profits, in an amount to be proved at trial.

164. By reason of Plaintiff's breach as aforesaid, Defendant is entitled to an award of incidental damages.

165. By reason of the aforesaid, Defendant is entitled to recoup all moneys received by Plaintiff from Letters of Credit opened by Defendant or transferred by Defendant to Plaintiff.

166. By reason of the aforesaid, Defendant has been damaged in an amount as of yet unknown, to be proven at trial, in excess of \$5,000,000.00, but in any event substantially in excess of any moneys due Plaintiff from Defendant herein, and Defendant should have judgment therefore.

**AS AND FOR AN ELEVENTH ALTERNATIVE DEFENSE AND SECOND  
ALTERNATIVE COUNTERCLAIM**

167. Defendant repeats and realleges each and every prior allegation hereof as if set forth at length herein.

168. By reason of the aforesaid breaches of its agreements to sell and deliver apparel in accordance with the Orders, Plaintiff breached its warranties, express and implied, and obligations owing to Defendant.

169. By reason of the aforesaid, Defendant has been damaged in an amount not less than \$5,000,000.00 and Defendant should have judgment therefore.

**WHEREFORE DEFENDANT AUGUST SILK, INC.**, respectfully demands judgment (I) dismissing the Complaint of Plaintiff, New Yuen Fat Garments Factory Limited; (ii) on granting the relief requested in each of its Counterclaims; and (iii) for such other and further relief as this Court deems just and proper.

Respectfully submitted this 29<sup>TH</sup> day of April, 2008.

**LAZARUS & LAZARUS, P.C.**

By: 

**HARLAN M. LAZARUS (HML 0268)**

*Attorneys for Defendant*

*Direct Apparel Sourcing, Inc.*

240 Madison Avenue

New York, New York 10016

(212) 889-7400

To: **YUEN ROCCANOVA SELTZER & SVERD LLP**  
132 Nassau Street, Suite 1300  
New York, New York 10038  
ATTN: **PETER E. SVERD, ESQ.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
NEW YUEN FAT GARMENTS FACTORY,  
LIMITED,

Plaintiff,

- against-

AUGUST SILK INC. AND DIRECT APPAREL  
SOURCING, INC.

Defendants.  
-----X

Index No.:07 CIV 8304

**ANSWER AND ALTERNATIVE COUNTERCLAIMS OF DIRECT APPAREL  
SOURCING, INC. TO COMPLAINT OF PLAINTIFF, NEW YUEN FAT  
GARMENTS FACTORY LIMITED**

LAZARUS & LAZARUS, P.C.  
*Attorneys for Defendant,*  
DIRECT APPAREL SOURCING, INC.  
240 Madison Avenue, 8<sup>th</sup> Floor  
New York, New York 10016  
Tel. (212) 889-7400

To

Service of a copy of the within is hereby admitted.

Dated:.....

Attorney(s) for